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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,604	12/05/2003	Ronald Alan Coffee	4897.0512870	1573
26874	7590	11/19/2007		
FROST BROWN TODD, LLC			EXAMINER	
2200 PNC CENTER			ALI, SHUMAYA B	
201 E. FIFTH STREET				
CINCINNATI, OH 45202			ART UNIT	PAPER NUMBER
			3771	
			NOTIFICATION DATE	DELIVERY MODE
			11/19/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

dbell@fbtlaw.com  
rgaunce@fbtlaw.com

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/729,604	COFFEE ET AL.	
	Examiner	Art Unit	
	Shumaya B. Ali	3771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 8/16/07.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 57-64 is/are pending in the application.
- 4a) Of the above claim(s) 61-63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 57-60, 64 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Status of Claims*

In response to the office action mailed on 5/16/07, Applicant has amended claims 57-60, and entered new claim 64. Claims 1-56 are previously cancelled. Claims 61-63 are previously withdrawn. Currently, claims 57-60, and 64 are pending in the instant application.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claim 57, 58, 60, and 64 are rejected under 35 U.S.C. 102(b) as being anticipated by Coffee WO/98/03267.**

As to claim 57, Coffee discloses a method of controlling the geometry or shape of comminuted mater produced by electrohydrodynamic (**Coffee on page 10, lines 10-18, and page 24, lines 15-17 discloses the pump chamber 10 for moving liquid can be electrohydrodynamic pump**) comminution of at least one liquid (**pump chamber 10 contains at least one liquid, see page 14, lines 22-25; examples of liquid, i.e., polyvinyl alcohol, polyglycolic acid are listed on page 22, lines 25-27**), which method comprises including an effective amount of at least one polymer (**see polymer solution on page 24, and lines 18-35, and a list of polymer on page 23, lines 1-17**) having a molecular weight of from about 40,000

to about 400,000 in at least one of the liquids (see page 12, lines 35 and 36, and page 13, lines 1-4, where polymer weight is disclosed being 140,000 or more).

As to claim 58, Coffee discloses the polymer is polyvinyl alcohol or polyvinyl pyrrolidone in at least one of the liquids (see page 19, line 22, and page 20, lines 13-25 for polyvinyl alcohol).

As to claim 60, Coffee discloses wherein the liquid comprises water and alcohol (see page 19, lines 22 and 23).

As to claim 64, Coffee discloses the liquid does not include surfactants (it is inherent that water and alcohol does not contain surfactants since Coffee does not state that water or alcohol is being coated with a protein).

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

Art Unit: 3771

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claim 59 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coffee WO/98/03267.**

As to claim 59, Coffee lacks explicit teaching of controlling the geometry or shape by adding sufficient polymer to the liquid to cause at least some of the comminuted matter to have a granular form with at least a portion of the granules having fibrils or tails. However, Coffee on page 20, lines 33-35, page 25, lines 1-26, page 26, lines 25-29, and page 29, lines 31-36 discloses controlling factors such as size of the nozzle, and/or molecular weight of the liquid, and/or liquid flow rate, and/or type of solvent, and/or type of liquid, and/or voltage can be adjusted to control the size and shape of the comminuted matter. Coffee further teaches the size and shape such as fibres, fibrils or microcapsules (which are granular forms) can be achieved by adjusting said control factors (see page 25, lines 32 and 33). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to derive at the size and shape of comminuted matter as claimed using Coffee's device and adjusting the control factors as discussed.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 57-60 have been considered but are moot in view of the new ground(s) of rejection.

### *Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

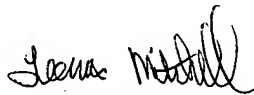
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shumaya B. Ali whose telephone number is 571-272-6088. The examiner can normally be reached on M-W-F 8:30am-5:00 pm.

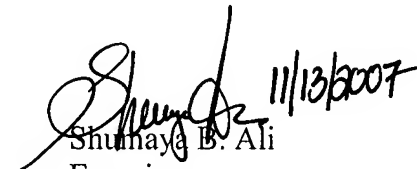
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

Art Unit: 3771

applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
**TEENA MITCHELL**  
PRIMARY EXAMINER

 11/13/2007  
Shumaya B. Ali  
Examiner  
Art Unit 3771